



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/066,950	02/04/2002	Michael J. Wookey	P7229	4657
33438	7590	04/01/2005	EXAMINER	
HAMILTON & TERRILE, LLP P.O. BOX 203518 AUSTIN, TX 78720			FLEARY, CAROLYN FATIMAH	
			ART UNIT	PAPER NUMBER
			2152	

DATE MAILED: 04/01/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/066,950

Applicant(s)

WOOKEY ET AL.

Examiner

Carolyn F. Fleary

Art Unit

2152

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 2/4/2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claim(s) 1-27 are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

### **Election/Restrictions**

1. Restriction to one of the following inventions is required under 35 U.S.C. §121:

I. Claims 1-15 are drawn to subject matter wherein computers located at distant sites transfer data via at least one dedicated communications line classified in class 709, subclass 217.

II. Claims 16-27 are drawn to subject matter comprising means or steps for managing the resources of the computers connected by a computer network or of the network itself, classified in class 709, subclass 223.

Inventions I and II are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects. (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions are not disclosed as capable of use together and have different operations, different functions and effects.

2. Because these inventions are unrelated for the reasons given above and because the search required for each group is different and not co-extensive for examination purpose because these groups would require different searches on PTO's classification class and subclass e.g. a) the Group I search (1-15) would require use of search classified in Class 709, subclasses 217, b) the Group II search (claims 16-27) would require use of search Class 709, subclasses 223, therefore restriction for examination purposes as indicated is proper.

3. Restriction is required under 35 U.S.C. 121 to one of the above identified patentably unrelated groups of designs. A reply to this requirement must include an election of a single group for prosecution on the merits, even if this requirement is traversed, 37 CFR 1.143. Any reply that does not include election of a single group will be held non-responsive. Applicant is also requested to direct cancellation of all drawing figures and the corresponding descriptions which are directed to the non-elected.

4. Should applicant traverse this requirement on the grounds that the groups are not patentably distinct, applicant should present evidence or identify such evidence now of record showing the groups to be obvious variations of one another. If the groups are determined not to be patentably distinct and they remain in this application, any rejection of one group over prior art will apply equally to all other

Art Unit: 2152

embodiments. See Ex parte Appeal No. 315-40, 152 USPQ 71 (Bd. App. 1965). No argument asserting patentability based on the differences between the groups will be considered once the groups have been determined to comprise a single inventive concept.

5. In view of the above requirement, action on the merits is deferred pending compliance with the requirement in accordance with Ex parte Heckman, 135 USPQ 229 (P.O. Super. Exam. 1960).

### ***Conclusion***

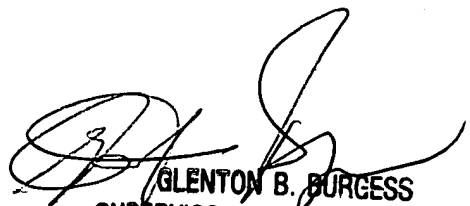
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Carolyn F. Fleary whose telephone number is (571) 572-7218. The examiner can normally be reached on 8:30a - 4:00p.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Glenton Burgess can be reached on (571) 272-3949. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Carolyn F Fleary  
Examiner  
Art Unit 2152

CFF

  
GLENTON B. BURGESS  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2100